

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Aaron Teegarden,

Civil 12-2190 SRN/FLN

Plaintiff,

v.

O R D E R

Tom Roy, Joan Fabian, Andy
Lieffort, Sara Hard, Doe Officers
1-7, Doe Doctors 1-4, Doe
Nurses 1-6,

Defendants.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated March 15, 2013, all the files and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that Defendants' motion to dismiss (ECF No. 13) is **GRANTED** in part and **DENIED** in part.

1. To the extent Defendants' motion seeks to dismiss the Eighth Amendment claims (Count IV) against Roy, Fabian and Hard, the motion is **GRANTED**, as follows:
 - A. Count IV against Roy and Fabian is dismissed **with prejudice**.
 - B. Count IV against Hard is dismissed **without prejudice**.
2. To the extent Defendants' motion seeks to dismiss the Eighth Amendment claims (Count IV) against Lieffort, the motion is **DENIED**.
3. To the extent Defendants' motion seeks to dismiss the negligence claims (Count V) against Roy, Fabian and Hard, the motion is **GRANTED**, as follows:

- A. Count V against Roy and Fabian is dismissed **with prejudice**.
- B. Count V against Hard is dismissed **without prejudice**.

4. To the extent Defendants' motion seeks to dismiss the negligence claims (Count V) against Lieffort, the motion is **GRANTED in part** and **DENIED in part**, as follows:

- A. The negligent supervision and hiring claims pled against Lieffort are dismissed **with prejudice**.
- B. The prima-facie state law negligence claim pled against Lieffort remains.

5. To the extent Defendants' motion seeks to dismiss Count I, the motion is **GRANTED**, pursuant to Plaintiff's voluntary dismissal. See ECF No. 22, 1.

6. To the extent Defendants' motion seeks to dismiss the official capacity claims asserted against Roy, Fabian, Hard and Lieffort in Counts II , III and V, the motion is **GRANTED**, pursuant to Plaintiff's stipulation. See ECF No. 22, 1.

7. To the extent Defendants' motion seeks to dismiss all remaining claims against Doe Defendants, the motion is **DENIED**. Teegarden shall submit an amended complaint no later than 60 days from the issuance of this Order. The amended complaint shall identify the Doe defendants, if possible, and include all factual allegations against them.

DATED: April 3, 2013.
at St. Paul, Minnesota

s/Susan Richard Nelson
JUDGE SUSAN RICHARD NELSON
United States District Court